

FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

REYNALDO GONZALEZ; THE ESTATE
OF NOHEMI GONZALEZ; BEATRIZ
GONZALEZ, Individually and as
Administrator of the Estate of
Nohemi Gonzalez; JOSE
HERNANDEZ; REY GONZALEZ; PAUL
GONZALEZ,

Plaintiffs-Appellants,

v.

GOOGLE LLC,

Defendant-Appellee.

No. 18-16700

D.C. No.
4:16-cv-03282-
DMR

ORDER

Filed January 3, 2022

Before: Ronald M. Gould, Marsha S. Berzon, and
Morgan Christen, Circuit Judges.

Order;
Dissent by Judge Gould

SUMMARY*

Anti-Terrorism Act

The panel filed an order denying a petition for panel rehearing and denying, on behalf of the court, a petition for rehearing en banc in an appeal in which the panel affirmed the district court's dismissal of an action under the Anti-Terrorism Act on the grounds that most of the plaintiffs' claims were barred under § 230 of the Communications Decency Act, and plaintiffs otherwise failed to state a claim.

Dissenting from the denial of rehearing en banc, Judge Gould wrote that he dissented for the reasons stated in his panel opinion dissenting in part.

COUNSEL

Keith Altman (argued) and Daniel W. Weininger (argued), Excolo Law, Southfield, Michigan, Plaintiff-Appellant Reynaldo Gonzalez.

Robert J. Tolchin (argued) and Meir Katz, Berkman Law Office LLC, Brooklyn, New York; for Plaintiffs-Appellants Estate of Nohemi Gonzalez; Beatriz Gonzalez, Jose Hernandez, Rey Gonzalez, and Paul Gonzalez.

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

Brian M. Willen (argued), Wilson Sonsini Goodrich & Rosati, New York, New York; David H. Kramer, Lauren Gallo White, and Kelly M. Knoll, Wilson Sonsini Goodrich & Rosati, Palo Alto, California; Steffen N. Johnson and Paul N. Harold, Wilson Sonsini Goodrich & Rosati, PC, Washington, D.C.; for Defendant-Appellee.

Aaron Mackey and Sophia Cope, Electronic Frontier Foundation, San Francisco, California, for Amicus Curiae Electronic Frontier Foundation.

Brian J. Dunne, Bathaee Dunne LLP, Los Angeles, California; Yavar Bathaee, Bathaee Dunne LLP, New York, New York; for Amicus Curiae Artificial Intelligence Law and Policy Institute.

ORDER

Judge Gould and Judge Berzon have voted to grant Plaintiffs-Appellants' petition for rehearing and rehearing en banc, and Judge Christen has voted to deny the petition for rehearing and rehearing en banc.

The full court was advised of the petition for rehearing en banc. A judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the nonrecused active judges in favor of en banc consideration. *See Fed. R. App. P. 35.* Judges Wardlaw, Collins, Bress, and Koh did not participate in the deliberations or vote in this case.

The petition for rehearing and rehearing en banc (Dkt. 87, 88) is **DENIED**.

Judge Gould's dissent from the denial of rehearing en banc is filed concurrently with this order.

GOULD, Circuit Judge, dissenting from denial of rehearing en banc:

I respectfully dissent from denial of rehearing *en banc* for the reasons stated in my panel opinion dissenting in part in *Gonzalez v. Google LLC*, 2 F.4th 871, 918–52 (9th Cir. 2021).